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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

GROUP 1600

In re application of: Luo et al.

Group Art Unit: 1645

Serial No. 09/041,236

Examiner: Lee, L.

Filed: Mar 11, 1998

Attorney Docket No. EX98-001

For: *Semaphorin K1*

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted by fax to (703)308-4242 on January 29, 2000

Signed

Richard Osman

RESPONSEThe Assistant Commissioner for Patents
Washington, DC 20231

Dear Commissioner:

Thank you for the Action mailed 1/18/00. The only pending rejection is newly made under 35USC103(a), over Ensser et al. in view of Sambrook. However, Ensser has an publication date (its effective date as prior art under 35USC102 and 103) of Sept, 1998 - six month after our filing date. See MPEP§715 (700-139) and MPEP§2128 - 2128.2 (a reference is effective as of it's actual date of publication - not any purported date of submission). Hence, Ensser is not prior art under 35USC102 to our application and the pending claims are in compliance with 35USC103(a).

Upon allowability of the product claims of Group I, Applicants request rejoinder of non-elected Group III claims 19-22 (in the case of an elected product claim, rejoinder will be permitted when a product claim is found allowable and the withdrawn process claim depends from or otherwise includes all the limitations of an allowed product claim, per Commissioner Lehman's Notice of February 28, 1996: Guidance on Treatment of Product and Process Claims in light of In re Ochiai, In re Brouwer and 35 U.S.C. 103(b)).

Respectfully submitted,
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